

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
CHARLESTON DIVISION**

**B.P.J., by her next friend and mother, HEATHER
JACKSON,**

Plaintiff,

v.

**Civil Action No. 2:21-cv-00316
Honorable Joseph R. Goodwin**

**WEST VIRGINIA STATE BOARD OF
EDUCATION, HARRISON COUNTY BOARD
OF EDUCATION, WEST VIRGINIA
SECONDARY SCHOOL ACTIVITIES
COMMISSION, W. CLAYTON BURCH in his
official capacity as State Superintendent,
DORA STUTLER, in her official capacity as
Harrison County Superintendent, and
THE STATE OF WEST VIRGINIA,**

Defendants,

and

LAINY ARMISTEAD,

Defendant-Intervenor.

**DEFENDANTS WEST VIRGINIA STATE BOARD OF EDUCATION AND
W. CLAYTON BURCH'S MOTION FOR SUMMARY JUDGMENT**

NOW COME Defendants West Virginia State Board of Education and Superintendent W. Clayton Burch, by and through counsel, Kelly C. Morgan, Michael W. Taylor, Kristen V. Hammond, and the law firm of Bailey & Wyant, P.L.L.C., and, pursuant to Rule 56 of the *Federal Rules of Civil Procedure*, hereby move this Court for entry of an Order granting them summary judgment resulting in a dismissal from this action, with prejudice. In support of this Motion, these Defendants submit their contemporaneously filed Memorandum of Law in Support of their Motion for Summary Judgment, as well as the following exhibits:

- (a) Exhibit 1 – Deposition Transcript of WVBOE 30(b)(6) Representative Michele Blatt;
- (b) Exhibit 2 – Deposition Transcript of WVSSAC 30(b)(6) Representative Bernard Dolan and Ex. 6;
- (c) Exhibit 3 – Disability Rights S.C. v. McMaster, No. 21-2070, 2022 U.S. App. LEXIS 2292 (4th Cir. Jan. 25, 2022); and
- (d) Exhibit 4 – 2022 West Virginia Legislature House Joint Resolution 102.

WHEREFORE, based upon the foregoing and the reasons set forth in the contemporarily filed Memorandum of Law, Defendants West Virginia State Board of Education and Superintendent W. Clayton Burch respectfully request that this Court enter an Order granting them summary judgment resulting in a dismissal from this action, with prejudice, and awarding them such other relief deemed necessary and appropriate.

Respectfully Submitted,

**DEFENDANTS WEST VIRGINIA
STATE BOARD OF EDUCATION
and W. CLAYTON BURCH**

By Counsel,

/s/ Kelly C. Morgan

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 21, 2022, the foregoing “**Defendants West Virginia State Board of Education and Superintendent W. Clayton Burch’s Motion for Summary Judgment**” was electronically filed with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following CM/ECF participants:

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